

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Olathe, Colorado)
MM Docket No. 99-28
RM-9438

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 13, 2002

Released: March 22, 2002

By the Chief, Allocations Branch:

1. The Chief, Allocations Branch, has before it a Notice of Proposed Rule Making ("NPRM"), 14 FCC Red 2275 (1999), in this proceeding, issued in response to a rulemaking petition filed by Mountain West Broadcasting. The NPRM proposed the allotment of Channel 270C2 to Olathe, Colorado. Mountain West filed comments, including a continuing expression of interest in the Olathe allotment. A timely counterproposal was filed jointly by the Meadowlark Group, Inc., permittee and transferor of Station KAVD(FM), Limon, Colorado, and ColoRadio, Inc., transferee of Station KAVD. Mountain West filed reply comments.

2. In their jointly filed counterproposal, the transferor and transferee of Station KAVD(FM), Channel 276C1, Limon, Colorado, proposed to upgrade Station KAVD(FM) by substituting Channel 276C for Channel 276C1 at Limon, to reallocate the upgraded channel to Parker, Colorado, as the community's first local service, and to modify the license of the station accordingly, pursuant to Section 1.420(i) of the Commission's Rules. In order to make the proposed changes to Station KAVD, the counterproposal proposed that (1) Channel 288C2 be substituted for Channel 276C2 at Avon, Colorado, and the license for Station KZYR(FM), Avon, CO be modified accordingly; (2) Channel 274C be substituted for vacant Channel 273C at Craig, Colorado; (3) Channel 270C be substituted for Channel 287C at Rifle, Colorado and the license for Station KZKS(FM), Rifle, CO be modified accordingly; and (4) Channel 228C be substituted for vacant Channel 275C at Imperial, Nebraska. The counterproposal's proposed substitution of Channel 270C at Rifle conflicted with the NPRM's proposal to allot Channel 270C2.

3. On January 14, 2002, the Meadowlark Group, Inc., licensee of Station KAVD(FM), requested a withdrawal of its counterproposal in this proceeding because its interest in a station at Parker had been accommodated in a different rulemaking proceeding. Specifically, the Chief, Allocations Branch, had reallocated Channel 276C1 to Parker, Colorado, for use by Station KAVD(FM), in MM Docket No. 00-6. See McCook, Nebraska, et al., DA 01-1081, released April 27, 2001. The Meadowlark Group submitted an affidavit stating that it received no consideration for the withdrawal of its counterproposal in MM Docket 99-28. Since this request complies with Section 1.420(j) of the Rules, we will approve the request and dismiss the counterproposal.

4. With the dismissal of Meadowlark's counterproposal, there is only one remaining allotment proposal in this proceeding – that is, the NPRM's proposal to allot channel 270C2 to Olathe, Colorado. We believe that the public interest would be served by allotting Channel 270C2 to Olathe because this would provide Olathe with a second local transmission service¹ and because we have a continuing expression of interest in the allotment by the petitioner. Channel 270C2 can be allotted to Olathe at reference coordinates 38-36-18 and 107-58-54 without a site restriction in compliance with the Commission's technical requirements for spacing and city grade coverage.

5. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 6, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Olathe, Colorado	270C2, 293C

6. A filing window for Channel 270C2 at Olathe will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

7. IT IS FURTHER ORDERED, That the counterproposal jointly filed by the Meadowlark Group, Inc. and ColoRadio, Inc., IS DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Andrew J. Rhodes, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

¹ We recently allotted Channel 293C to Olathe, Colorado, as a first local transmission service in MM Docket 98-188. See Panonia and Olathe, CO, DA 01-1909, released December 14, 2001.